

Belvedere: May 27, 2004
Bruce Sams

Corte Madera: **TO:** Transportation Authority of Marin Commissioners
Melissa Gill

Fairfax: **RE:** Draft Administrative Code Policy Issues and First Reading of Ordinance
Lew Tremaine by Title Only and Schedule Merit Hearing for June 24, 2004 – Agenda Item 7

Larkspur: Dear Commissioners:
Joan Lundstrom

Mill Valley: Over the past several months, a Governance Committee to the Joint Committee of the Board of Supervisors, Transit District, and Congestion Management Agency met several times to discuss bylaws, rules for proceedings, conflict of interest code, etc. for the new Transportation Authority of Marin (“TAM”). The Committee was chaired by Commissioner Lundstrom and included Supervisor Murray, Commissioner Swanson, and Commissioner Eklund as members. Attached is a copy of the Draft Administrative Code Ordinance developed by the Governance Committee for review and discussion by TAM. The final Administrative Code Ordinance is scheduled to be adopted at the regular meeting of TAM on June 24th.
Dick Swanson

Novato:
Pat Eklund

Ross:
Tom Byrnes

San Anselmo:
Peter Breen

San Rafael: **List of Outstanding Policy Issues to Consider**
Al Boro

Sausalito: The following list of outstanding policy issues to consider was developed by the Governance Committee for discussion by TAM:
Amy Belser

Tiburon: ⇒ **Section 102.1(a)(25)** – It was the consensus of the Governance Subcommittee that some of the gross revenues should be set aside as a reserve for program overruns. Should a percentage of gross revenues (usually 10%) be set aside as a reserve? Or, alternatively, should a set dollar amount based on defined capital costs identified in the Expenditure Plan be set aside in the first year as a reserve? Another option would be to develop a policy as part of the first Strategic Plan process and not to include it in the code.
Alice Fredericks

County of Marin:

⇒ **Section 103.5** – An issue concerning what constitutes a quorum needs to be resolved. The question at hand is whether a quorum should be a simple majority of the TAM Board (9) or both a majority of the BOS (3) Commissioners and a majority of the City/Town Commissioners (6)? Also, there is a separate but related question raised by some members of the Committee as to whether there should be 16 total votes for TAM or whether each jurisdiction should get only one vote, so that the BOS as a whole would get one vote, and the City/Town Commissioners would each get one vote (12 total).

Draft Administrative Code Ordinance Letter

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- ⇒ **Section 104.2(b)** – Should TAM continue having an Executive Committee, as outlined in this section, or should TAM establish other Standing Board Committees, such as a Financial Committee or a Planning Committee, in lieu of the Executive Committee?
- ⇒ **Section 104.6** – County Counsel has advised that the Marin County Transit District may not be consolidated with TAM without new legislation being adopted by the State. However, the MCTD could call an election any time for the purpose of submitting to the voters the question of whether the District will be dissolved.

Section 104.6 simply allows “transportation and transit agencies and other entities interested or involved in transportation issues in the County,” such as the MCTD, GGBHTD, and Caltrans, to participate in TAM matters as ex officio members who can attend meetings and discuss Board matters but are not allowed to vote on actions. The Governance Committee could not reach consensus on whether this section should specifically include the two City/Town Council Members of the MCTD as non-voting members of TAM. In addition, should other transportation agencies representatives, such as GGBHTD and/or Caltrans, be included as ex officio members or should the general language of Section 104.6 be left as is? Also, this section requires ex officio members to be elected officials. Should this requirement be reconsidered?

Recommendation

Staff recommends that TAM: (1) review and discuss the draft Administrative Code and provide direction to staff, using the list of outstanding policy issues developed by the Governance Committee as a guide to the discussion; and (2) request the Executive Director to read the ordinance by title only and schedule a merit hearing for June 24, 2004.

Respectfully Submitted,

Craig Tackabery
Executive Director

Attachment:

1. Draft Administrative Code Ordinance No. 2004-01

TRANSPORTATION AUTHORITY OF MARIN

ORDINANCE 2004-01

AN ORDINANCE OF THE TRANSPORTATION AUTHORITY OF MARIN ENACTING AN ADMINISTRATIVE CODE THAT PRESCRIBES THE POWERS AND DUTIES OF THE AUTHORITY CHAIR AND VICE CHAIR, THE METHOD OF APPOINTING AUTHORITY EMPLOYEES, AND METHODS, PROCEDURES, AND SYSTEMS OF OPERATION AND MANAGEMENT OF THE AUTHORITY

SECTION 1. FINDINGS

Whereas the Transportation Authority of Marin ("TAM") does hereby find and declare the following:

- I. On March 2, 2004, the Marin County Board of Supervisors ("Board of Supervisors") created TAM by Resolution No. 2004-21, pursuant to Section 180050 of the California Public Utilities Code.
- II. As required by California Public Utilities Code Section 180051(a) and California Government Code Section 65089(a), a majority of City and Town Councils of Marin County, representing a majority of the incorporated population of Marin, have concurred on the membership of TAM and designated TAM as the Congestion Management Agency for Marin County. The governing board of TAM is composed of 16 commissioners, including the five members of the Board of Supervisors and one member from each Marin City and Town Council appointed by their respective councils.
- III. Pursuant to California Public Utilities Code Section 180105(b), TAM is required to adopt an Administrative Code by ordinance, which prescribes the powers and duties of the Chair and Vice Chair, the method of appointment of employees, and methods, procedures, and systems of operation and management of TAM.
- IV. As required by California Public Utilities Code Section 180101, the Administrative Code, attached to this ordinance and identified as "Exhibit A," includes rules for proceedings consistent with the laws of the State of California.
- V. As required by California Government Code Sections 81000 et seq., the Administrative Code, attached to this ordinance and identified as "Exhibit A," includes a conflict of interest code.
- VI. Pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(2), adoption of an Administrative Code ordinance does not qualify as a project subject to the requirements of CEQA.

SECTION 2. ADOPTION

Now, therefore, based on the findings in Section 1 above, the Transportation Authority of Marin does hereby ordain the adoption of the Administrative Code of the Transportation Authority of Marin attached to this ordinance and identified as "Exhibit A."

SECTION 3. EFFECTIVE DATE, PUBLICATION, AND SEVERABILITY

The Transportation Authority of Marin does hereby further ordain the following:

1. Effective Date and Publication. This ordinance shall be, and is hereby declared to be, in full force and effect on July 25, 2004, and a summary shall be published once before July 9, 2004 (15 days after its passage), with the names of the Commissioners voting for and against same, in the *Marin Independent Journal*, a newspaper of general circulation, published in the County of Marin.
2. Severability. If any term, provision, or portion of this ordinance is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining portions of this ordinance shall continue in full force and effect unless amended or modified by the County.

SECTION 4. VOTE

PASSED AND ADOPTED at a regular meeting of the Transportation Authority of Marin, on the 24th day of June, 2004 by the following vote to-wit:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

STEVE KINSEY, CHAIR
TRANSPORTATION AUTHORITY OF MARIN

ATTEST:

Craig Tackabery
Executive Director

"Exhibit A" is not included electronically on the website.
Hard copies are available at TAM offices.

RECEIVED

APR 27 2004

Marin County
Department of Public Works

Dick Swanson
Mayor
Dennis P. Fisco
Vice-Mayor
Christopher Raker
Councilmember



Anne B. Solem
Councilmember
Clifford Waldeck
Councilmember
Don Hunter
City Manager

April 22, 2004

Congestion Management Agency
Marin County Dept. of Public Works
P.O. Box 4186
San Rafael, CA 94913

Dear CMA Members:

The Mill Valley City Council at its April 19th meeting discussed and passed the resolution concurring in the formation of the Marin Transportation Authority. During its deliberations, the Council identified several issues of concern related to both the formation and the bylaws of the proposed Authority. As a consequence, the City Council wishes to express those concerns directly to each member of the CMA.

First, the Council was very concerned that the Expenditure Plan could be changed by a simple two-thirds vote of the Marin Transportation Authority members. We will support passage of this initiative based upon the Expenditure Plan that has been presented to, and hopefully approved by, Marin County voters, not one modified sometime later by a vote of the Authority. We feel that there is a certain public trust involved in adhering to that Plan once the initiative is passed. Therefore, we think it is very important that the same "majority vote of the cities representing a majority of the incorporated population" language used to approve the Plan be also used as a criterion for changing the Expenditure Plan. While we understand that out of necessity there may have to be some minor tweaking and adjustments to the Expenditure Plan and a vehicle has to be created to allow that to happen, we feel that the voters' trust would be best served if there were a more rigorous approval process for any significant changes to the plan.

Our concern in this issue is not only to avoid money being re-routed to unapproved projects, but also to allow all of us to enthusiastically support this Expenditure Plan.

The second issue that the Council discussed was the inclusion of ex-officio members of the Marin Transportation Authority. In particular, we feel strongly that CalTrans and the Golden Gate Bridge, Highway and Transportation District (GGBHTD) should have representatives sitting in ex-officio roles. Further, we feel that these should be detailed in the bylaws of the group in order to insure their inclusion. The benefits of such participation are not only obvious but also extremely significant. Having representatives

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of Caltrans and the GGBHTD present at Authority public meetings insures buy-in, sharing of information and ongoing dialogue as projects or programs move forward. During our discussions we could not come up with a downside to having them be present and participate as needed and while we understand there is some sentiment to perhaps include such ex-officio members once the Authority formed, we wanted to go on record as strongly stating our concern that the ex-officio members be included as required in the by-laws in order to ensure the Expenditure Plan be implemented as smoothly as possible. Significant portions of the Plan, at least 69 percent as proposed, will be spent on programs or projects dealing directly with either CalTrans or GGBHTD. As such, coordination as communication with these agencies as "partners" will, we believe, be critical to the successful and timely implementation of the Plan


The Mill Valley City Council remains committed to seeing this initiative pass, and believes that the issues we have raised will be helpful not only in the long-term running of the Marin County Transportation Authority but also in helping to put together an initiative that will be well-received by the voters.

Thank you for considering our concerns.

Sincerely,



Dick Swanson, Mayor


Dennis Fisco, Vice Mayor
Christopher Raker, Councilmember
Anne Solem, Councilmember
Clifford Waldeck, Councilmember

Tackabery, Craig

From: David Schonbrunn [David@Schonbrunn.org]
Sent: Wednesday, April 14, 2004 11:56 PM
To: Tackabery, Craig
Subject: TAM representation

Thank you for checking into the legal requirements of CMA membership. Following our phone conversation today, I suggest you include the following text in the Administrative Rules for the Authority, in lieu of providing voting membership for transit operators on the Authority board:

"Because SB 45 assigns the CMA to be the board that allocates funds to all transit agencies operating within the county, Authority members are expected to also advocate on behalf of the agency boards upon which they sit. Authority members shall identify when they are speaking on behalf of their respective transit agency."

I believe this language not only highlights the issue of multiple representations/conflicts of interest by Authority members, but establishes a useful protocol to make it manageable.

--David

David Schonbrunn, President
TRANSDEF (Transportation Solutions Defense and Education Fund)
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Mill Valley, CA 94941
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